



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

MAY 17 2005

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ivan Posey, Chairman
Eastern Shoshone Business Council
for the Shoshone Utility Organization
P.O. Box 217
Ft. Washakie, WY 82514

Re: Administrative Order
Docket No. **SDWA-08-2005-0019**
Shoshone Utility Organization
PWS ID #5690003

Dear Chairman Posey:

Thank you for your substantial efforts to provide safe drinking water to those served by the Ft. Washakie public water supply. I recognize and appreciate the important work you have done to remedy the compliance problems that were present at this public water supply when you took office. I understand that Dolores Jimerson's services managing the administrative duties have been particularly effective in making progress toward compliance with the Safe Drinking Water Act. Your commitment to resolving the noncompliance matters is apparent given the numerous times you have made yourself personally available to meet with me or my staff; given your very demanding schedule I know you have placed a very high priority on safe drinking water.

Unfortunately, violations occurred in 2004 and early 2005 which require a response from my office. For instance in 2004, prior to your taking office, the water system incurred nine monitoring violations for various contaminants. It is my belief that you have already taken measures to correct the historic operations that resulted in these violations, as well as conducted sampling this year to address monitoring requirements for eight of those contaminants. Additionally, one set of violations occurred in 2005 after the former water treatment manager departed. Currently, the staff at the water plant is cooperatively working with EPA regarding the 2005 violations in an effort to return the system to compliance. A listing of all



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recent violations and corrective measures needed is shown in the attached table.

I am hopeful that this listing of compliance issues outlined in the attached Administrative Order will provide a roadmap by which you and your staff may continue the good efforts you have already undertaken.

If you would like additional information, please feel free to contact me directly at 800) 227-8917, extension 6051 or (303) 312-6051. If your staff have questions, the most knowledgeable people on my staff regarding these issues are Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540, or if your attorneys have legal questions, Michelle Marcu at the above 800 number, extension 6921, or at (303) 312-6921. Again, I offer my thanks and appreciation for all you have done to ensure that the Ft. Washakie water supply operates now, and in the future, in compliance.

Sincerely,



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Dolores Jimerson
Ft. Washakie PWS

Don Aragon, Executive Director
Wind River Environmental Quality Commission



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2005 MAY 17 AM 9:14

IN THE MATTER OF)

Shoshone Utility Organization)
Ft. Washakie Water Treatment Plant, Operator)
27 North Fork Road)
P.O. Box 338)
Ft. Washakie, Wyoming 82514)
PWS ID# WY5690003)

Respondent)

Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))

FILED
EPA REGION VII
HEARING CLERK

ADMINISTRATIVE
ORDER

Docket No. **SDWA-08-2005-0019**

The following findings are made and order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) in the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. The Shoshone Utility Organization ("Respondent") is a tribal agency under the laws of the Eastern Shoshone Business Council and is therefore a "person" within the meaning of 40 C.F.R. § 141.2 for purposes of federal enforcement.

2. Respondent operates the Ft. Washakie Water System ("System"), located on the Wind River Reservation, Ft. Washakie, Wyoming, that provides water for human consumption. The System serves approximately 3,700 residents annually through 620 service

connections consisting of 600 residential service connections and 20 commercial service connections.

3. The System is a "public water system" and a "community water system" within the meaning of the Act and the regulations. 40 C.F.R. § 141.2.

4. Respondent operates the System and is therefore a "supplier of water" within the meaning of the Act and the regulations. 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is, therefore, required to comply with the Act and regulations. 42 U.S.C. § 300g, and 40 C.F.R. part 141.

5. The System is supplied solely by surface water from the South Fork of the Little Wind River and, when needed, the North Fork of Little Wind River.

FINDINGS OF VIOLATION

A. Findings of Violation for Continuing Violations which require additional action in 2005

1. The regulations require that a system conduct monthly monitoring for disinfection byproduct precursors, including "paired samples" of total organic carbon (TOC) in source water and treated water, and alkalinity in the source water. More specifically, a system must collect one paired sample of TOC and one source water alkalinity sample per month per plant (40 C.F.R. § 141.132(d)). The System failed to collect such samples at any

time in 2004 and January - March, 2005, and, therefore, violated the Act and the regulations each month.

2. The regulations require that information from the monthly monitoring samples stated above be reported to EPA each quarter. (40 C.F.R. § 141.134(a)). The System failed to report such information during 2004 and the 1st quarter of 2005, and, therefore, violated the Act and the regulations each quarter.

3. The regulations require a system to monitor tap water annually for lead and copper, with a specified number of samples, based on the size of the system. (40 C.F.R. § 141.86). This System is required to take a minimum of 20 samples.

(40 C.F.R. § 141.86(c)). The System did not sample for lead and copper in 2003 and only collected 10 of the 20 samples required in 2004, and, therefore, violated the Act and the regulations.

4. The regulations require a system to take two quarterly samples in one year during each three-year compliance period to monitor the water for pesticide/herbicide organic contaminants. (40 C.F.R. § 141.24(h)) The System failed to monitor the water for pesticide/herbicide organic contaminants during the three-year compliance period of January 1, 2002 to December 31, 2004, and, therefore, violated the Act and the regulations. The System monitored one of the two required quarterly samples for pesticide/herbicide organic contaminants in March, 2005.

5. The regulations require a system to notify the public of any violations of monitoring requirements. (40 C.F.R. § 141.201). The System has not provided public notice of the 2003 lead and copper monitoring violation detailed above, and, therefore, violated the Act and the regulations. Although the System has not provided public notice for the other violations contained in this order, the regulations provide one year for the System to provide public notice of these violations (see 40 C.F.R. § 141.204).

B. Findings of Violation - Past Violations: Respondent previously violated the following regulations, but is currently in compliance:

1. The regulations (see 40 C.F.R. § 141.132(b)) require the collection of one water sample from the distribution system during each quarter to determine compliance with the maximum contaminant level ("MCL") for disinfection byproducts (see 40 C.F.R. § 141.64), and the System failed to take such samples during the 1st and 2nd quarters of 2004, and therefore, violated the Act and the regulations. The System is currently in compliance with this requirement, as it sampled for disinfection byproducts during the 3rd and 4th quarter of 2004 and the 1st quarter of 2005.

2. The regulations require systems to report information including the number of disinfection byproducts samples taken

during the quarter; locations, date, and results of samples taken; the arithmetic average of the results; and whether the MCL for disinfection byproducts was violated, to EPA within 10 days after the end of each quarter. (40 C.F.R. § 141.134). The System failed to report such information for the 1st and 2nd quarters of 2004, and reported the 4th quarter of 2004 and 1st quarter of 2005 results late (March 15, 2005 and April 20, 2005, respectively), and, therefore, violated the Act and the regulations.

3. When a surface water source is used, such as at the System, the regulations require a system to monitor turbidity at representative points in the distribution system at least every 4 hours. (40 C.F.R. § 141.74). The System failed to monitor the water for turbidity for 24 hours on July 1 and November 1, 2004, and failed to monitor the water for 16 hours on October 13 and 31, 2004 and therefore, violated the Act and the regulations.

4. The regulations require a system to monitor monthly for total coliform. (40 C.F.R. § 141.21). The System failed to monitor for total coliform in November, 2004 and failed to take the required number of samples in August, 2002 and September, 2004 (only took 4 out of 5 samples), and, therefore, violated the Act and the regulations. The System is currently in compliance with the total coliform monitoring requirements.

5. The regulations require a system to monitor annually for nitrate. (40 C.F.R. § 141.23(d)). The System failed to monitor

for nitrate in 2004, and, therefore, violated the Act and the regulations. The System is currently in compliance with the nitrate monitoring requirements, as it monitored for nitrate in 2005.

6. The regulations require a system to monitor the water for inorganic contaminants once in each three-year compliance period. (40 C.F.R. § 141.23(c)(1)). The System failed to monitor the water for inorganic contaminants in the three-year compliance period of January 1, 2002 to December 31, 2004, and, therefore, violated the Act and the regulations. The System is currently in compliance with the inorganic contaminants monitoring requirements, as it monitored for inorganic contaminants in 2005.

7. The regulations require that a system monitor the water annually for volatile organic contaminants. (40 C.F.R. § 141.24(f)). The System failed to monitor the water for volatile organic contaminants in 2004, and, therefore, violated the Act and the regulations. The System is currently in compliance with the volatile organic contaminants monitoring requirements, as it monitored for volatile organic contaminants in 2005.

8. The regulations require a system to monitor the water for asbestos during the first three-year compliance period of each nine-year compliance cycle. (40 C.F.R. § 141.23(b)(1)). The System failed to monitor the water for asbestos during the first

three-year compliance period (January 1, 2002 - December 31, 2004) of the nine-year compliance cycle, and, therefore, violated the Act and the regulations. The System is currently in compliance with the asbestos monitoring requirements, as it monitored for asbestos in 2005.

9. The regulations require a system to report any failure to comply with a coliform monitoring requirement to EPA within 10 days, and report other violations to EPA within 48 hours. (40 C.F.R. §§ 141.21(g)(2) and 141.31(b)). The System failed to report the coliform monitoring violation and other violations detailed above to EPA, and, therefore, violated the Act and the regulations.

ORDER

Based on the findings of violations above, the Respondent is ordered to do the following:

A. Compliance Requirements for Continuing Violations which require additional action in 2005

1. Upon the effective date of this order, monitor monthly for disinfection byproduct precursors, including "paired samples" of total organic carbon (TOC) in source water and treated water, and alkalinity in the source water (40 C.F.R. § 141.132(d)); and report analytical results and compliance calculations to EPA within the first 10 days of the end of the monitoring period (40 C.F.R. §§ 141.134(a) and (d)).

2. Between June 1 and September 30, 2005, and according to the regulations after that, monitor the water for lead and copper (40 C.F.R. § 141.86; 40 C.F.R. part 141 subpart I); and report results and other information to EPA within the first 10 days following the end of each applicable monitoring period (40 C.F.R. § 141.90(a)).

3. Within 30 days of the effective date of this order, and as required by the regulations after that, monitor for pesticide/herbicide organic contaminants (40 C.F.R. § 141.24(h)); and report analytical results to EPA within the first 10 days following the month which results are received (40 C.F.R. § 141.31(a)).

4. Within 30 days after the effective date of this order, provide public notice of the 2003 lead and copper monitoring violation and the other violations set forth above, in the manner specified in the regulations. Such notice shall contain all of the information required by the regulations (40 C.F.R. §§ 141.201, 141.204 and 141.205). Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice (40 C.F.R. § 141.31(d)).

5. Upon the effective date of this order, report any failure to comply with coliform monitoring requirements to EPA within 10 days (40 C.F.R. § 141.21(g)(2)).

6. Except where a different reporting period is specified in paragraph 12. above, upon the effective date of this order, report any failure to comply with any regulation to EPA within 48 hours (40 C.F.R. § 141.31(b)).

B. Ongoing Requirements for Past Violations: Although Respondent is currently in compliance with the following regulations, Respondent shall continue to comply as set forth below:

1. Upon the effective date of this order, monitor quarterly for disinfection byproducts in the distribution system (40 C.F.R. § 141.132(b)) to determine compliance with the disinfection byproducts MCL (40 C.F.R. § 141.64); and report analytical results and compliance calculations to EPA within the first 10 days of the end of the monitoring period (40 C.F.R. §§ 141.134(a) and (b)).

2. Upon the effective date of this order, monitor the water for turbidity (40 C.F.R. § 141.74(c)(1)); and report the results to EPA within the first 10 days following the end of the monitoring period (40 C.F.R. § 141.75).

3. Upon the effective date of this order, comply with the total coliform monitoring requirements (40 C.F.R. § 141.21); and report analytical results to EPA within the first 10 days following the month in which sample results are received (40 C.F.R. § 141.31(a)).

4. Upon the effective date of this order, comply with the nitrate monitoring requirements (40 C.F.R. § 141.23(d)); and report analytical results to EPA within the first 10 days following the month in which sample results are received (40 C.F.R. § 141.31(a)).

5. Upon the effective date of this order, monitor for inorganic chemicals (40 C.F.R. § 141.23(c)(1)); and report analytical results to EPA within the first 10 days following the month which results are received (40 C.F.R. § 141.31(a)).

6. Upon the effective date of this order, monitor for volatile organic chemicals (40 C.F.R. § 141.24(f)); and report analytical results to EPA within the first 10 days following the month which results are received (40 C.F.R. § 141.31(a)).

7. Upon the effective date of this order, monitor for asbestos per the regulations (40 C.F.R. § 141.23(b)(1)); and report analytical results to EPA within the first 10 days following the month which results are received (40 C.F.R. § 141.31(a)).

8. Send any reports to EPA required in this order by certified mail to:

U. S. EPA Region 8 (8P-W-MS)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

Issuance of this order does not constitute a waiver, suspension, or modification of any Federal law or regulation, nor is it an election by EPA to forgo any civil or criminal action otherwise authorized by law.

Violation of any term of this order may result in an administrative civil penalty of up to \$27,500, or a civil penalty of not more than \$32,500 per day of violation assessed by the U.S. District Court. (42 U.S.C. § 300g-3(g)(3)(B) or (C)).

Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by the U.S. District Court. (42 U.S.C. § 300g-3(b)).

This order is effective upon receipt.

Issued this 10th day of May, 2005.



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Summary of Violations and Sampling/Reporting Requirements in Administrative Order

Violation	Dates of Violation	Date when SUO last conducted monitoring/reporting	Additional monitoring required in new AO
Violations which require additional sampling or reporting activities in 2005			
Failure to conduct monthly monitoring for disinfection byproduct precursors (40 C.F.R. § 141.132(d)).	January - December, 2004 and the January - March, 2005	<i>EPA does not have a record of this monitoring</i>	<i>Monitor monthly</i>
Failure to report disinfection byproduct precursors monitoring to EPA within 10 days after the end of each quarter. (40 C.F.R. § 141.134(a)).	All of 2004 and the 1st quarter of 2005	<i>EPA does not have a record of SUO reporting this monitoring</i>	<i>Report information within 10 days after each quarter</i>
Failure to monitor annually for lead and copper (required to take a minimum of 20 samples) (40 C.F.R. § 141.86).	-2003 -Only collected 10 of the 20 samples required in 2004	partially sampled in 2004	<i>(June - September), 2005</i>
Failure to take two quarterly samples in one year during each three-year compliance period to monitor the water for pesticide/herbicide organic contaminants. (40 C.F.R. § 141.24(h))	FTM during the three- year compliance period of January 1, 2002 to December 31, 2004	March, 2005	<i>Order specifies SUO to sample within 30 days of the effective date of the order.</i>

Violation	Dates of Violation	Date when SUO last conducted monitoring/reporting	Additional monitoring required in new AO
Failure to provide public notice of violations of monitoring requirements. (40 C.F.R. § 141.201)	Not provided public notice of the 2003 lead and copper monitoring violation ¹	Not for 2003 lead and copper violation or other violations contained in 2nd AO	Provide public notice for past and future violations
Past violations which are currently in compliance			
Failure to collect one sample each quarter to determine compliance with the maximum contaminant level ("MCL") for disinfection byproducts (40 C.F.R. § 141.132(b))	1st and 2nd quarters of 2004	3rd and 4th quarter of 2004 and the 1st quarter of 2005	Continue to monitor quarterly
Failure to report information regarding quarterly disinfection byproducts samples to EPA within 10 days after the end of each quarter. (40 C.F.R. § 141.134).	1st and 2nd quarters of 2004, and reported the 4th quarter of 2004	Late reporting - 1st quarter of 2005 results late (March 15, 2005 and April 20, 2005, respectively)	Report information within 10 days after each quarter
Failure to monitor for turbidity at least every 4 hours. (40 C.F.R. § 141.74)	--For 24 hours on July 1 and November 1, 2004 --For 16 hours on October 13 and 31, 2004	Currently in compliance	Continue to monitor at least every 4 hours

¹ Although the System has not provided public notice for the other violations contained in this order, the regulations provide one year for the System to provide public notice of these violations (see 40 C.F.R. § 141.204).

Violation	Dates of Violation	Date when SUO last conducted monitoring/reporting	Additional monitoring required in new AO
Failure to monitor monthly for total coliform. (40 C.F.R. § 141.21).	-November, 2004 -Failed to take the required number of samples in August and September, 2004 (only took 4 out of 5 samples)	Currently in compliance	Continue to monitor monthly
Failure to monitor annually for nitrate. (40 C.F.R. § 141.23(d))	2004	Monitored for nitrate in March, 2005 Therefore, currently in compliance with the nitrate monitoring requirements	Continue to monitor annually
Failure to monitor for inorganic contaminants once in each three-year compliance period. (40 C.F.R. § 141.23(c)(1)).	FTM during three-year compliance period of January 1, 2002 to December 31, 2004	March, 2005 Therefore, currently in compliance with the inorganic contaminants monitoring requirements	2008
Failure to monitor annually for volatile organic contaminants. (40 C.F.R. § 141.24(f)).	2004	March, 2005 Therefore, currently in compliance with the volatile organic contaminants monitoring requirements	2006
Failure to monitor for asbestos during the first three-year compliance period of each nine-year compliance cycle. (40 C.F.R. § 141.23(b)(1)).	FTM during the first three-year compliance period (January 1, 2002 - December 31, 2004) of the nine-year compliance cycle	Monitored March, 2005 - Therefore, currently in compliance with the asbestos monitoring requirements	

Violation	Dates of Violation	Date when SUO last conducted monitoring/reporting	Additional monitoring required in new AO
The regulations require a system to report any failure to comply with a coliform monitoring requirement to EPA within 10 days, and report other violations to EPA within 48 hours. (40 C.F.R. §§ 141.21(g)(2) and 141.31(b))	All violations in 2nd AO	No	Report future violations to EPA